IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 87 of 1999

in

SPECIAL CIVIL APPLICATIONNo 8415 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

P.J. MASTER

Appearance:

1. LETTERS PATENT APPEAL No. 87 of 1999
Mr.H.D.Dave, learned A.G.P. for Appellant No.
MR DIPAK C RAVAL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and

HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 16/12/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

#. The appellants - State of Gujarat and others have filed this appeal against the judgment and order dated 21.08.1998 passed by Kundan Singh, J (as he then was) in special civil application no. 8415 of 1992 whereby His Lordship allowed the writ petition and quashed and set aside the impugned orders dated 15.06.1990 and 20.11.1992 at Annexure `I' and `M' respectively and directed the present appellants to treat the respondent - original petitioner as an employee in the category of typists in Ahmedabad division with effect from 08.06.1973. This appeal was straightaway admitted on 18.01.2000 by the Division Bench of this Court.

Civil application no. 309 of 1999 filed in this letters patent appeal which was disposed of by a brief reasoned order which is as under :

"Rule. Learned counsel for the respondent waives service of Rule.

2. Heard both the sides on the question of interim relief. Having regard to the facts and circumstances of the case, the impugned order of the learned Single Judge is stayed. The direction which was given on 21.2.2000 by the Division Bench in this application that the respondent shall be considered for seniority and promotion as if he had entered the service with effect from 1.1.1976, however, stands and must be complied with by the concerned authority. The claim of the respondent for seniority and promotion at the place where he was working since last 27 years should be considered. Merely because he may have worked for a few months at Baroda, that will not preclude the concerned authority from considering his claim in the Ahmedabad office where it is said that he has been working since last 27 years. Rule is made absolute accordingly with no order as to costs."

#. Once the civil application was disposed of by a speaking order, then practically it was conceded by both the learned advocates for the parties - Shri Dave for the

appellants and Shri Raval for the respondent - original petitioner that this appeal may be finally disposed of in terms of the order dated 29.03.2000 passed by the Division Bench of this court in civil application no. 309 of 1999.

#. This appeal is accordingly allowed and the direction issued by the learned single Judge while allowing the writ petition of the respondent - petitioner to the respondents appellants to treat the petitioner as an employee in the category of typists in Ahmedabad division with effect from 08.06.1973 is modified and it is directed that the present appellants - original respondents may consider the case of the respondent - petitioner for seniority and promotion as if he had entered the service with effect from 01.01.1976 and not with effect from 08.06.1973. Except this, rest of the order passed by the learned single Judge is not disturbed and the claim of the respondent - original petitioner for seniority in promotion shall be considered at the place where he worked i.e. office of the Settlement Commissioner and Director of Land Records, Ahmedabad since last 27 years.

#. Accordingly, this appeal is allowed to the aforesaid extent only with no order as to costs.

(B.J.SHETHNA, J)

(SHARAD D DAVE, J)

srilatha